

# Court overturns nearly century-old conviction for fishing at traditional Yakama location

**By Kate Prengaman**

Yakima Herald

November 8, 2015



**Buy Now**

Yakima Herald-Republic

Johnson Meninick, director of the Yakama Cultural Resource program, holds a photo of his great uncle Gorge Meninock at the Yakama Museum in Toppenish, Wash. Friday, Nov. 6, 2015. Meninock who was an early fishing rights activist who was arrested for fishing at a traditional Yakama fishing site. The wrongful convictions against Meninock were recently cleared under a new Washington State law. (SOFIA JARAMILLO/Yakima Herald-Republic)

YAKIMA, Wash. -- Justice can come slowly. In this case it has taken nearly a century.

It is the story of treaty rights, Washington state's belated efforts to correct wrongs and an 81-year-old Yakama man who sought for years to vacate his great-uncle's 1917 conviction for illegally fishing.

George Meninock was 77 when he told a court it his right to fish his family's traditional site near the just-built Prosser Dam. That right, he argued through a translator, was protected by the Yakama Nation's 1855 treaty that he had watched 14 chiefs, including his father, sign with Washington Territory Gov. Issac Stevens.

But by 1916, tribal members were being arrested for fishing at the dam and Meninock allowed himself to be arrested as a way of protest.

“Top-tut, where we are arrested for fishing, is one of the old fishing places where the Indians were fishing when Gov. Stevens gave the solemn promise which our people accepted as the pledge of the government,” Meninock told the Washington Supreme Court when it heard the appeal of his case 1921.

“And we say that when your officers punished us for taking fish at the places reserved you violate your treaty and your promise and while you may punish us because you are the power, yet before God, whose justice is more than that of men, we are innocent of having done wrong,” he said.

His arguments failed to convince the justices and he was convicted and fined \$10.

It would be generations of more fishing protests and arrests before a federal court ordered Oregon and Washington in 1974 to respect the treaty rights that Meninock had argued for and another generation still before Washington began offering a path to clear those fishing convictions.

“It’s long overdue,” said his 81-year-old great-nephew Johnson Meninick, who pursued having his long-deceased great-uncle’s record cleared as another step in the long fight to have the Yakama’s treaty rights recognized.

“He told the court through the interpreter that the treaty protected his right to fish and he would not pay the fine, even when they said well then you’ll have to go to jail,” recalled Meninick, who serves as the director of the Yakama Nation’s Cultural Resources Program.

“It took 100 years to clear his name, but my sons and grandsons still fish there at Prosser,” he said. “We’ll feel more comfortable fishing there now.”

Meninock’s record is among the first cleared under a new state law aimed at righting historic wrongs from the era when state courts frequently convicted tribal members for fishing. That was before the landmark 1974 case, known as the Boldt Decision, affirmed that treaty rights entitled Northwest tribes to half the harvest on all traditional fishing grounds, not just on reservations.

During a 2014 hearing, the prime sponsor of the law called it a way to apologize for history wrongs.

“This is small, (and) it doesn’t do the times justice. But we can own up to our mistakes,” said Rep. David Sawyer, D-Tacoma.

Attorney Jack Fiander, who worked with Meninick on this case, said that they’d had the idea of trying to get the record cleared a decade ago, but there was no pathway or traction to do so.

This time he was surprised by the support of state and local courts.

In October, State Attorney General Bob Ferguson expressed his support for vacating the convictions of both Meninock and his friend Alec Towessnute — who was convicted in 1916 and inspired Meninock to take his protest to the courts.

Last week, a Benton County Superior Court vacated Meninock's conviction. Towessnute's case has yet to be reviewed.

When the Legislature passed the conviction clearing bill in 2014, it was estimated that about 80 living tribal members could benefit, but there's no estimate for how many deceased may be eligible as well or how many may be Yakama.

Meninick himself is a veteran of the "Fish Wars" of the 1960s and '70s and he testified in the Boldt case about state wardens hassling him and other tribal fishermen at Prosser Dam.

In 1914, the dam was built by a local power company and then taken over by the Kennewick Irrigation District, whose canal cuts off from the river there. The dam was built on top of a gentle falls that had been a popular, easy fishing spot with tribal members for generations, according to the book "The Si'lailo Way: Indians, Salmon, and the Law on the Columbia River," co-authored by University of Washington Law Professor William Rodgers.

That fishing spot — among many others — is exactly what his great-grandfather and the other Yakama Chiefs fought to protect during the treaty negotiations, Meninick said in an interview this week.

"Since time immemorial on, from the creator we were given these resources and we are the caretakers," he said. "That's why our chiefs got the reservation and the rights to the usual and accustomed places in the treaty."

In his 1921 testimony, Meninock offered a rare first-hand account of the negotiations that took place through interpreters over several tense weeks on the Walla Walla Council Grounds in 1855, while he was a boy accompanying his father.

"When the chiefs at the council did not want to sign the treaty, Stevens asked them why and the Indians said: If we give you possession of the lands we will lose out rights to the fish in the streams, but Stevens said no, the Whites only want to farm and would never interfere with the Indian fishing at their old fishing places," Meninock told the Washington State Supreme Court in 1921.

"But my father said, when we are dead then who will be witness to what you promise? Then Gov. Stevens said I will write it down in the treaty that you and your people have the right to take fish at these old fishing places and I pledge the American to keep this promise as long as the mountains stand, as long as the sun shines, and as long as the river runs. My people believed him and signed the treaty," he said. "But now I and my Indians have been arrested for fishing and I am here to answer."

Meninock died in 1928, but the Si'lailo Way authors write that he "achieved more than he dared to believe" — his eloquence inspired the state Legislature to approve a short-lived Indian fishery at Prosser Dam and drew the support of a U.S. Attorney to take up defense of treaty rights.

His last words to the court were resigned, but having his name cleared now proves his fight paid off, Fiander and Meninick said.

“For years I have been trying to defend the rights of my people.... and the thought that I may die without having secured for them their rights will break my heart but then God knows I did my best.”

- Kate Prengaman can be reached at 509-577-7674 or [kprengaman@yakimaherald.com](mailto:kprengaman@yakimaherald.com). Follow her on Twitter at [twitter.com/kprengaman](https://twitter.com/kprengaman)

509-577-7674

[kprengaman@yakimaherald.com](mailto:kprengaman@yakimaherald.com)